

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	4:06CR3016
)	
v.)	
)	
ARMANDO GARCIA-DELACRUZ,)	MEMORANDUM AND ORDER ON
)	DEFENDANT'S MOTION FOR A
Defendants.)	PSYCHIATRIC EXAMINATION
)	

On May 27, 2009, the defendant filed a sealed motion for a “Psychiatric Examination Under 18-4242.” (See filings 191, 195.) In a memorandum and order dated June 16, 2009, I noted that, although the procedures set forth in 18 U.S.C. § 4242 and Federal Rule of Criminal Procedure 12.2 do not seem to be applicable at this stage of the proceedings, there may be merit to the defendant’s request for a psychiatric examination. (See filing 194 at 1-2.) I therefore ordered that the defendant’s motion be unsealed in part, and I granted the government leave to file a response within ten days of the unsealing of the motion. (See id. at 4.) The defendant’s motion was unsealed on June 17, 2009, and the government has filed no response to the motion. I take it, therefore, that the defendant’s motion for a psychiatric examination is unopposed.

The nature of the examination sought and the procedure to be used to accomplish it remain to be determined. To that end, I shall order the defendant, who is now represented by counsel, to submit to my chambers a proposed order granting the defendant’s motion for a psychiatric examination. See NECrimR.12.2. This order must specify the purpose of the examination; the scope of the examination; whether the examination will be ordered pursuant to a particular statute or rule, or whether it will be an independent examination by a mental health professional of the defendant’s choice; and any other information deemed pertinent by the defense. The proposed order must be submitted within twenty days of the date of this order; if it is not, then I shall reconsider, and may summarily deny, the defendant’s motion for a psychiatric examination.

IT IS ORDERED that the defendant shall, within twenty days of the date of this memorandum and order, submit a proposed order granting the defendant's motion for a psychiatric examination. This proposed order must satisfy the criteria specified in the memorandum accompanying this order, and it should be submitted in accordance with NECrimR. 12.2.

Dated August 26, 2009.

BY THE COURT

s/ Warren K. Urbom
United States Senior District Judge